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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,927	05/24/2001	Lee E. Cannon	IGT1P482X1/AG32-CIP	2424

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EXAMINER	
WONG, JEFFREY KEITH	

ART UNIT	PAPER NUMBER
3714	

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05/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/864,927	CANNON ET AL.	
	Examiner	Art Unit	
	Jeffrey K. Wong	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *34,35,38,55-64,68 and 69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *34,35,38,55-64,68 and 69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/12/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of the Application

1. This Office-Action acknowledges the Amendment filed on 2/12/2009 and is a response to said Amendment.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 34, 38, 58-59, 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres USPUB 2001/0055990 (Acres) in view of Pascal 2003/0130041 (Pascal) and Bennett, US 6/572,471 (Bennett)

Regarding Claim 34, 58

Acres discloses of a slot machine (Abstract) that can have its rate of play changed (Abstract) in order to change payback percentages (Abstract) because it would be desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods(Para 12).

Acres failed to disclose that the gaming machines can be configured for tournament play.

However, Pascal teaches of a system for playing games of chance, and more particularly to a method and apparatus for allowing a number of players to participate simultaneously in a tournament using a plurality of gaming terminals networked together and under control of a master terminal(para 2) because it would make tournament play more available to all who would enjoy the play, simplify the establishment's monitoring requirements, and reduce overhead expense(para 6).

Acres fails to disclose the tournament being initiated in response to the occurrence of a qualifying outcome of the at least one primary game of chance.

However, Bennett teaches of a slot machine (Col 1, lines 8-10) that has the ability to go into a tournament mode based on the outcome of a primary game (Col 6, lines 46-50) as means of keeping players amused and therefore willing to continue playing (Col 1, lines 16-17)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the variable slot machine of Acres' invention, with slot machine tournament teachings of Pascal and the primary game qualification teachings of Bennett's invention because it would attract players to the machine during low demand periods as well as reduce overhead expense as taught by Pascal and keep players amused as taught by Bennett.

Regarding Claim 38.

Pascal discloses of how the tournament game will revert back to normal after a

predetermined period of time.(Abstract)

Regarding Claim 59.

Acres teaches of how the rate of play can be changed based on the time of day (para 42. In this case, the time can be viewed as automatically set.)

Regarding claim 64

Pascal discloses qualifying for play in the tournament game by tendering a wager (Abstract. In this case, the wager is the entry fee)

Claims 35, 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres USPUB 2001/0055990 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US 6,572,471 (Bennett) in view of Giaclone, US 5,758,875 (Giaclone).

Regarding Claim 35

Giacalone teaches of a rate control (Abstract) that can be used to adjust the play speed of a gaming machine such as a slot machine (Col 4, lines 7-25) in order to contribute to the feeling that the player was at least partially in control of the operation of the gaming machine (Col 1, lines 34-36) and delays the onset of boredom and allows the players to play the game at the frequency which is most comfortable to him (Col 2, lines 41-43). It would have been obvious to incorporate such a teaching with the above invention to delay the onset of boredom as taught by Giacalone.

Regarding Claim 55.

Giacalone teaches of how the rate of play can be changed during completion of game play (Col 4, lines 20-25. In this case, the number of plays can be viewed as 1)

Regarding Claims 56-57.

Gaicalone teaches of how the rate of play can be increased or decreased (Abstract).

Claims 60-63 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres USPUB 2001/0055990 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US 6,572,471 (Bennett) and Giaclone, US 5,758,875 (Giaclone) in view of Angell, Jr. (US 6,368,218 B2).

Regarding Claims 60-62

Angell teaches the play of a game tournament wherein players are required to play at some minimum rate of play else the game machine will automatically conduct play of the tournament for them so slower inattentive players do not stop the game(Col 4, lines 7-16).

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the automatic minimum rate of play feature of Angell with the combined teachings Acres, Pascal and Bennett as discussed in the rejection of Claim 34 so slower inattentive players do not stop the game as taught by Angell

Regarding Claim 63

Giacalone teaches a dynamic rate control method and apparatus for electronic games of chance which take samples of the rate of play of the gaming device to obtain a standard rate of play and adjust the rate of play accordingly (Col 3, lines14-17). Giacalone is related to the prior at because it pertains to adjustments of rates of play for electronic gaming machines, therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to obtain a standard rate of play using sampling techniques taught by Giacalone in order to contribute to the feeling that the player was at least partially in control of the operation of the gaming machine (Col 1, lines 34-36) and delays the onset of boredom and allows the players to play the game at the frequency which is most comfortable to him (Col 2, lines 41-43).
It would have been obvious to incorporate such a teaching with the above invention to delay the onset of boredom as taught by Giacalone.

Regarding Claim 68.

(New) The method of claim 34 wherein the qualifying outcome of the at least one primary game of chance is winning the at least one primary game chance.
Bennett teaches of a slot machine (Col 1, lines 8-10) that has the ability to go into a tournament mode based on the outcome of a primary game (Col 6, lines 46-50) as means of keeping players amused and therefore willing to continue playing (Col 1, lines 16-17)

Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Acres USPUB 2001/0055990 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US 6,572,471 (Bennett) as applied to Claim 34 and in further view of Stromer, US 5,769,422(Stromer) Regarding Claim 69.

Stromer teaches that how it is possible for players to qualify to enter tournaments based on wins over a predetermined period of time. For example, the players having the most wins in a given afternoon would be invited to play in a tournament.(Col 6, lines 45-51) Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is well known that there are means of qualifying to enter tournaments can be based on multiple wins of at least one primary game of chance.

Response to Arguments

3. Applicant's arguments filed 2/12/2009 have been fully considered but they are not persuasive.

4. Applicant alleges:

"Claims 35, 55-57 and 59 stand rejected as obvious over Acres and Pascal and Bennett in view of U.S. Patent No. 5,758,875 (Giaclone, Jr.). Two different grounds of rejection have been applied against claim 59. Clarification is requested." The Examiner had made a mistake when it came to indicating which claims are being rejected based on which references. The Examiner meant to indicate "Claims 35, and 55-57 stand rejected as obvious over Acres and Pascal and Bennett in view of U.S. Patent No. 5,758,875 (Giaclone, Jr.)" and apologizes if the mistake had caused any confusion.

"There is absolutely no disclosure in Bennett, or any of the other cited references, of initiating a tournament game of chance in a multi-player tournament in response to the occurrence of a qualifying outcome of at least one primary game of chance". The Examiner disagrees. Bennett teaches of a slot machine (Col 1, lines 8-10) that has the ability to go into a tournament mode based on the outcome of a primary game (Col 6, lines 46-50).

"It is respectfully submitted that impermissible hindsight has been used in making the obviousness rejections. That is, Applicants' specification has been used as a guide to cobble together the various references in an effort to show that Applicants' invention would have been obvious." In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey K. Wong whose telephone number is (571)270-3003. The examiner can normally be reached on M-Th 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/

Supervisory Patent Examiner, Art Unit 3714

JKW